

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3855 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

RAMANBHAI BHIKHABHAI GAMIT

Versus

STATE OF GUJARAT & ANR.

Appearance:

MR MM JADEJA for Petitioner

MR MC JANI & MR MUKESH PATEL for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 26/08/96

ORAL JUDGMENT

The learned counsel for the respondents makes a statement before this Court that papers of this case have not been sent to them. Be that as it may. It is an old matter of the year 1983 and I do not consider it appropriate to grant any further indulgence to the respondents as earlier also indulgence has been granted. Heard learned counsel for the petitioner.

2. The petitioner, a head-clerk, working in the Forest Department, Government of Gujarat, filed this petition before this Court under the apprehension of him reversion from the said post to the post of Accountant. In this respect, a reference is to be made to Para-9 of this Special Civil Application, which reads as under:

"The petitioner apprehends that since he had not served as Accountant for about 10 years at the time of his selection for promotion to the post of Head Clerk, he may now be reverted to the post of Accountant."

The petitioner was given promotion to the post of Head Clerk after he was adjudged suitable by the Departmental Promotion Committee, under the order dated 13.8.1981. The petitioner filed this writ petition in apprehension of his reversion to the post of Accountant and this Court has, by grant of interim relief, protected the petitioner, meaning thereby the reversion order has not been made by the respondents.

3. In view of the fact that reversion order has not been made, this writ petition does not survive and the same is dismissed. However, it is made clear that in case the respondent considers that the petitioner should be reverted to the post of Accounts Clerk, then it will give a notice and an opportunity of hearing to the petitioner and further shall consider that for all these years this Court has protected the petitioner and he has already retired from the service. The petitioner's counsel has given out that the petitioner has been promoted to the next higher post during this period. This fact has also to be taken into consideration by the respondents. This Court can only issue a writ to quash some orders which is not the case here. The petitioner should have approached this Court only when some order of reversion has been made or some action has been taken and not otherwise. In case the petitioner is able to make out a case this Court has ample powers to protect him by grant of interim relief etc. even after order is made.

4. In view of the aforesaid observations, this writ petition is dismissed. Rule is discharged. Ad-interim relief granted by this Court stands vacated. No order as to costs.

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(sunil)

